

ENTERED

January 19, 2021

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

JOSE BARRON-MORALES,

§

Petitioner

§

VS.

§

UNITED STATES OF AMERICA

§

§ CIVIL ACTION NO. 1:19-CV-180

§

§

ORDER ADOPTING REPORT AND RECOMMENDATION

In September 2019, Petitioner Jose Barron-Morales filed a Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (Doc. 1), alleging that his trial attorney provided ineffective assistance by counseling him not to appeal the Judgment in the underlying case. (*Id.* at 4) The Government moves for summary judgment, in part on the grounds that Barron-Morales's Motion is time barred. (Mot. for Summary Judg., Doc. 11, 26–27)

In November 2020, the United States Magistrate Judge issued a Report and Recommendation (Doc. 14) recommending that the Government's Motion for Summary Judgment be granted and that Barron-Morales's Section 2255 action be dismissed. No party filed objections.

As a result, the Court **ADOPTS** the Report and Recommendation (Doc. 14). It is:

ORDERED that the government's Motion for Summary Judgment (Doc. 11) is **GRANTED**; and

ORDERED that Petitioner Jose Barron-Morales's Motion under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (Doc. 1) is **DISMISSED** as untimely filed.

In addition, the Court finds that no outstanding issue would be debatable among jurists of reason, and that Barron-Morales fails to make a “substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). Accordingly, the Court **DENIES** the request for a Certificate of Appealability.

The Clerk of Court is directed to close this matter.

Signed on January 19, 2021.



Fernando Rodriguez, Jr.
United States District Judge